

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

CARLOS A. GARCIA PEREZ, et al	*	
Plaintiffs	*	CIVIL NO. 97-1703 (JGG)
v.	*	
ALVARO SANTAELLA, et al	*	
Defendants-Third Party Plaintiffs	*	
v.	*	
DR MARIA T CASADO GARCIA, et al	*	
Third Party Defendants	*	

MOTION FOR SUMMARY JUDGMENT

TO THE HONORABLE COURT:

COMES NOW Dr. Iván Terón Méndez, through his undersigned attorneys, and respectfully states and prays:

1. Carlos A. García and Gisela Baerga, per se, and in representation of the conjugal partnership and of their minor daughter, Carla Isabel García Baerga, have premised the instant malpractice action on diversity of citizenship jurisdiction under 28 U.S.C. § 1332 (a) 2. They alleged medical malpractice against Dr. Iván Terón Méndez for the first time with the filing of the Amended Complaint on September 22, 2004.

2. Defendant, Ashford Presbyterian Hospital, filed a Third Party Complaint against Dr. Iván Terón and other doctors who provided medical treatment to plaintiffs' babies at Ashford Presbyterian Community Hospital in Puerto Rico. On

October 5, 2004, Ashford filed a Motion for Voluntary Dismissal with regards to Dr. Ivan Terón. Judgment was entered accordingly on October 6, 2004.

3. Dr. Iván Terón sustains that claimants have failed to comply with the requirements for refuting the presumption under local law to the effect that the treatment rendered by Dr. Iván Terón Méndez to the claimant babies complied with the applicable medical standard.

4. In accordance to Local Rule 56 for the United District Court for the District of Puerto Rico, Dr. Ivan Terón Méndez is filing annexed to this motion a separate Statement of Uncontested Material Facts as to which defendant contends there is no genuine issue to be tried, as well as a Memorandum in Support of Motion for Summary Judgment.

WHEREFORE, Dr. Ivan Terón Méndez herein prays from this Honorable Court that it enter judgment dismissing the Amended Complaint filed by Plaintiffs, with the imposition of costs and attorney's fees.

CERTIFICATE OF SERVICE: I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to attorneys Andrés Guillermand Noble, PO Box 9949, San Juan, Puerto Rico 00908, Angel R. Del Corral, 130 Eleonor Roosevelt, San Juan, Puerto Rico 00918-3105, Igor Domínguez, El Monte Mall Suite 22, Avenida Muñoz Rivera 652, Hato Rey, Puerto Rico 00918, Pedro Toledo González, Julio Bogaricín Building, Suite L-06, Lobby, 1606 Ponce de León Avenue, Santurce, Puerto Rico 00909, Roberto Ruiz Comas, Andalucía 406 (Altos), Puerto Nuevo, San Juan, Puerto Rico 00920, Marta Elisa González, PO Box 195055, San Juan, Puerto Rico 00919-5055, Pedro J. Córdova, PO Box 9023998, San Juan, Puerto Rico 00902-3998, Alexis Mattei, PO Box 9023933, San Juan, Puerto Rico 00902-3933, Doris Quiñones

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Tridas, 113 Padre Las Casas, Suite 601, Urb. El Vedado, San Juan, Puerto Rico 00918-3116, Jeannette López de Victoria, P.O. Box 9024098, San Juan, Puerto Rico 00902-4098 and Gilda del C. Cruz Martínó, P.O. Box 9023875, San Juan, Puerto Rico 00902-3875.

Ponce, Puerto Rico, this 19th day of January, 2005.

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By:

s/José Héctor Vivas

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99-06-1403 (99-4360 M/M)